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Attorneys for Defendants County of
Siskiyou; Jeremiah LaRue and Jesus
Fernandez, in their official capacities
as members of the Siskiyou County
Sheriff's Department and in their individual
capacities; Brandon Criss, Ed Valenzuela,
Michael N. Kobseff, Nancy Ogren, and
Ray A. Haupt, in their official capacities
as members of the Siskiyou County Board
of Supervisors and in their individual
capacities; Edward Kiernan, in his official
capacity as County Counsel for Siskiyou
County and in his individual capacity;
and DOES 1-100.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

Dilevon Lo, Jerry Vang, Nathan Thao, Mao
Thao, Pao Lee, Antonio Lee, Koua Lee, Nhia
Thai Vang, Zeng Lee, Der Lee and Khue Cha

Plaintiffs,

vs.

County of Siskiyou; Jeremiah LaRue and
Jesus Fernandez, in their official capacities as
members of the Siskiyou County Sheriff's
Department and in their individual capacities;
and Brandon Criss, Ed Valenzuela, Michael
N. Kobseff, Nancy Ogren, and Ray A. Haupt,
in their official capacities as members of the
Siskiyou County Board of Supervisors and in
their individual capacities; Edward Kiernan,
in his official capacity as County Counsel for
Siskiyou County and in his individual
capacity; and DOES 1-100,

Defendants.

Case No.: 2:21-cv-00999-KJM-DMC

**DECLARATION OF EDWARD
KIERNAN IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Complaint Filed: June 4, 2021

First Amended Complaint Filed: July 15, 2021

1 I, Edward Kiernan, do declare as follows:

2 1. I am currently Siskiyou County Counsel, a position to which I was appointed March
3 12, 2018.

4 2. Prior to working for Siskiyou County, I was a Deputy County Counsel for over
5 twelve years in Marin County and six years in Nevada County.

6 3. I am thoroughly familiar with the process of Board adoption of ordinances and
7 urgency ordinances.

8 4. All three ordinances in question were adopted by the Board using the usual process
9 for adopting urgency ordinances, which includes findings of fact pertaining to why there is an
10 urgency.

11 5. All three ordinances were subsequently adopted as regular ordinances to take the
12 place of the urgency ordinances even though the urgency ordinances are by their nature permanent,
13 unless repealed.

14 6. Ordinance No. 20-13 was enacted on August 4, 2020 at a regular meeting at the
15 Board of Supervisors in public hearing pursuant to the Brown Act.

16 7. Ordinances 21-07 and 21-08 were both enacted on May 4, 2021 at a regular meeting
17 of the Board of Supervisors in public and following an opportunity for public comment pursuant to
18 the Brown Act.

19 8. An urgency ordinance goes into effect after one hearing and immediately, whereas a
20 regular ordinance goes into effect after two hearings and a thirty-day delay. Both types of
21 ordinances are posted online a minimum of 72 hours before the Board meetings at which they will
22 be heard and the public is able to comment upon them prior to any Board action.

23 9. By first adopting these ordinances as urgency ordinances and then regular
24 ordinances, a minimum of three public meetings at which public comment was taken was afforded
25 to those who wished to express their views on each of them. Had the County wished to minimize
26 public comment, as insinuated by Plaintiffs' counsel, it could have simply passed them with one
27 hearing as urgency ordinances and taken no further action.

28 10. The Water Truck Ordinance, no. 21-08, regarding which Plaintiffs' counsel falsely

1 and repeatedly states that the County's "purported justification of the challenged laws keeps
2 changing" *Plaintiffs' Reply, ECF No. 33, p.1*, had findings of fact made in connection with it
3 referencing both the drought and the explosion in illegal cannabis cultivation and its attendant
4 deleterious effects upon the land and quality of life. The drought was emphasized more than other
5 reasons in these findings of fact, set forth as the reason for the urgency not the reason for the
6 ordinance itself. The devastating drought we are experiencing with area wells going dry in the
7 vicinity of those selling water to illegal cannabis growers added to the urgency.

8 11. The "decision making body" (*Plaintiffs' Reply, ECF No. 33, p.1*) for adopting
9 ordinances is the Board of Supervisors, not the Sheriff, not the District Attorney, and not some
10 anonymous racist posting online, for which the County is no more responsible than are Plaintiffs for
11 the numerous social media postings I have seen from purported growers threatening to riot and burn
12 down the City of Yreka.

13 12. With regard to the decision-making body, the Board of Supervisors, it found an
14 urgent situation existed as a consequence of the severe drought as well as the devastating effects of
15 large scale, illegal cannabis cultivation, requiring the passage of the Water Truck Ordinance, and if,
16 as Plaintiffs' counsel asserts in hearsay it has submitted to the Court, the District Attorney opined to
17 a newspaper after its passage that he only cared about its ability to fight the illegal cannabis trade,
18 that has zero bearing on the Board's decision to adopt the ordinance for multiple reasons.

19 I declare under penalty of perjury under the laws of the State of California that the foregoing
20 is true and correct and that this was executed on this 12th day of August, 2021 in Siskiyou County,
21 California.

22 /s/ Edward Kiernan
23 Edward Kiernan
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